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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/562,896

12/29/2005

Johannus Leopoldus Bakx

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02/04/2009

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

CHOW, LIXI

ART UNIT

PAPER NUMBER

2627

MAIL DATE

DELIVERY MODE

02/04/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/562,896	Applicant(s) BAKX, JOHANNUS LEOPOLDUS	
	Examiner LIXI CHOW	Art Unit 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/09/08 has been entered.

Claim Objections

2. Claims 2-5 are objected to because of the following informalities: the word "A" in line 1 of each of the claims should be --The--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1 and 4-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Lee et al. (US 2003/0227846; hereafter Lee).

Regarding claim 1:

Lee discloses a recording method for recording data stream on a dual layer recordable disk having a first layer and a second layer (see Fig. 1, the data stream is being recorded as indicated by the continuous arrow from first layer LAYER 0 to second layer LAYER1), the

Art Unit: 2627

method comprising an act of performing an Optimum Power Control (OPC) procedure for determining an actual optimum writing power, said Optimum Power Control procedure being performed in OPC-areas on the disk including an OPC-area positioned on the second layer located relatively close to a radius where the data stream switches from the first layer to the second layer (see Fig. 2; each of the recording layer includes a lead-in area, user data area, and a lead-out area; a test zone or an OPC-area is designated in each lead-in area and lead-out area; also, see Fig. 1; the lead-in area LI with an OPC-area in LAYER 1 (second layer) is located relatively close to a radius where the data stream switches from the LAYER 0 to LAYER 1).

Regarding claim 4:

Lee discloses the recording method as claimed in claim 1, comprising a further step of performing a further Optimum Power Control (OPC) procedure, said further Optimum Power Control procedure being performed in a further OPC-area located at a fixed position on at least one of the layers of the dual layer disk and reserved for use by the further Optimum Power Control procedure (see Figs. 1 and 2; LO area on layer 1 corresponds to a further OPC-area).

Regarding claim 5:

Lee discloses the recording method as claimed in claim 4, wherein the further Optimum Power Control procedure is performed in a first fixed OPC-area located on the first layer and in a second fixed OPC-area located on the second layer (see Figs. 1 and 2; LI area in layer 0 corresponds to a first fixed OPC-area and LO area in layer 1 corresponds to a second fixed OPC-area).

Regarding claim 6:

Lee discloses a recording device for recording information on a dual layer recordable disk adopted for using the methods according to claim 1 (see Fig. 6).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Ueda et al. (US 2003/0137910; hereafter Ueda).

Regarding claim 2:

Lee fails to disclose that the location of the OPC-area depends on the amount of information to be recorded. However, Ueda discloses a recording method, wherein the location of at least one of a replacement areas on layers of a dual layer disk depends on the amount of information to be recorded on the disk (see Fig. 11, 19, 21 or 22; the replacement areas are located in different area of the disk depending on the amount of information to be recorded).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the teaching of Lee and Ueda, since Ueda shows a more effective way of using the disk by having the location of the replacement area depends on the amount of the information to be recorded. Note that the distance between the replacement area and the defect area is greatly reduced; therefore a more effective way of using the disk is realized. One of ordinary skill in the art would have been motivated to designate the location of OPC-area

Art Unit: 2627

depending on the amount of data to be record because it will greatly reduce the amount of seek time.

Regarding claim 3:

Lee discloses a recording method, wherein at least one of the OPC-areas is located in the Middle Zone of the at least one of the layers of the dual layer disk (see Figs. 1 and 2; LO area of layer 0 and LI area of layer 1 correspond to the middle zone area).

Response to Arguments

7. Applicant's arguments filed 12/09/08 have been fully considered but they are not persuasive.

Applicant argues that Lee does not disclose the feature "said Optimum Power Control procedure being performed in OPC-areas on the disk including an OPC-area positioned on the second layer located relatively close to a radius where the data stream switches from the first layer to the second layer". However, Examiner respectfully disagrees. As stated above, Lee discloses an OPC-area, i.e., the test area within the lead-in area of LAYER 1 (i.e, the second layer), is positioned relatively close to a radius where the data stream switches from the first layer to the second layer (see Fig. 1, the horizontal arrow indicates that the data stream is being recorded from the first layer LAYER 0 to the second layer LAYER 1). The lead-in area LI of LAYER 1 is located close to a radius where the switching takes place.

Accordingly, claims 1 and 4-6 are not patentable over Lee.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIXI CHOW whose telephone number is (571)272-7571. The examiner can normally be reached on Mon-Fri, 8:30am to 6:00pm.

Art Unit: 2627

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wayne Young can be reached on 571-272-7582. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lixi Chow/

Examiner, Art Unit 2627